



# House of Representatives

General Assembly

**File No. 400**

*January Session, 2003*

Substitute House Bill No. 6636

*House of Representatives, April 16, 2003*

The Committee on Human Services reported through REP. VILLANO of the 91st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE RECOMMENDATIONS OF THE LONG-TERM CARE ADVISORY COUNCIL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-605a of the general statutes is amended by  
2 adding subsection (c) as follows (*Effective July 1, 2003*):

3 (NEW) (c) The Commissioner of Social Services shall seek a  
4 Medicaid Independence Plus Home and Community-Based Services  
5 Waiver pursuant to Section 1915(c) of the Social Security Act or a  
6 Medicaid Independence Plus Research and Demonstration Waiver  
7 pursuant to Section 1115 of the Social Security Act to be implemented  
8 upon the expiration of the waiver specified under subsection (a) of this  
9 section. Such waiver shall allow Medicaid beneficiaries to arrange and  
10 purchase personal care and support services that will allow such  
11 beneficiaries to remain in a family residence or in their own home.  
12 Such a program shall be limited to individuals who require long-term  
13 supports at a level typically provided in an institution irrespective of

14 the age of the individual or the type of disability involved. Such a  
15 waiver shall be submitted to the joint standing committees of the  
16 General Assembly having cognizance of matters relating to  
17 appropriations and the budgets of state agencies and human services  
18 in accordance with section 17b-8 not later than December 31, 2003.

19 Sec. 2. (NEW) (*Effective from passage*) There is established a pilot  
20 program, within the Department of Social Services, to assist in the  
21 implementation of the Nursing Facilities Transition Grant received by  
22 the state from the federal Department of Health and Human Services  
23 in October, 2001. Proceeds from said grant shall facilitate the transition  
24 of one hundred fifty persons with disabilities from nursing homes to  
25 community living during the fiscal years ending June 30, 2004, to June  
26 30, 2006, inclusive. Such pilot program shall allow persons being  
27 transitioned from institutions under the grant to receive, under the  
28 state supplement to the federal Supplemental Security Income  
29 program, sufficient funds, that added to the other income, allow such  
30 individuals to meet the minimum financial requirements for living in  
31 the community. Living allowances shall include: (1) A maximum rent  
32 allowance of not less than one hundred ten per cent of the Housing  
33 and Urban Development Fair Market Rent for the municipality in  
34 which the person will reside, (2) a food and household supplies  
35 allowance of one hundred fifty dollars per week, (3) a utilities  
36 allowance based on the standard state Rental Assistance Program  
37 allowance, (4) a monthly allowance of one hundred fifty dollars for  
38 clothing, personal incidentals and transportation, and (5) an annual  
39 adjustment to reflect changes in the consumer price index for urban  
40 consumers. The Department of Social Services shall collect data on the  
41 comparative cost of community living versus institutional living for  
42 persons covered by the grant and shall annually report their findings  
43 to the Long-Term Care Planning Committee and the Long-Term Care  
44 Advisory Council.

45 Sec. 3. (*Effective July 1, 2003*) (a) The sum of \_\_\_\_ dollars is  
46 appropriated to the Department of Social Services, from the General  
47 Fund, for the fiscal year ending June 30, 2004, for the purpose of

48 implementing section 2 of this act.

49 (b) The sum of \_\_\_\_ dollars is appropriated to the Department of  
50 Social Services, from the General Fund, for the fiscal year ending June  
51 30, 2005, for the purpose of implementing section 2 of this act.

52 Sec. 4. (*Effective July 1, 2003*) The sum of \_\_\_\_ dollars is appropriated  
53 to the Department of Social Services, from the General Fund, for the  
54 fiscal year ending June 30, 2004, for the purpose of expanding, by one  
55 hundred, the current number of personal care assistance program  
56 waiver slots.

57 Sec. 5. (*Effective July 1, 2003*) The sum of \_\_\_\_ dollars is appropriated  
58 to the Department of Social Services, from the General Fund, for the  
59 fiscal year ending June 30, 2004, for the purpose of expanding the  
60 number of Katie Beckett Model Home and Community Waiver slots  
61 from one hundred twenty-five to two hundred.

This act shall take effect as follows:	
Section 1	<i>July 1, 2003</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>July 1, 2003</i>
Sec. 4	<i>July 1, 2003</i>
Sec. 5	<i>July 1, 2003</i>

***Statement of Legislative Commissioners:***

In section 1, the phrase "under this section" was changed to "under subsection (a) of this section" for clarity. Subsection (b) of section 2 was restructured as section 3, and the remaining sections were renumbered accordingly for consistency and clarity.

**HS**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Type
Department of Social Services	GF - Indeterminate

**Municipal Impact:** None**Explanation**

This bill requires the Department of Social Services (DSS) to apply for a federal Medicaid waiver in order to provide personal care assistance and other services at home for individuals who would otherwise need institutional care. DSS will incur additional administrative costs to develop and submit this waiver. If these at-home services cost less than institutional services, and to the extent that this program reduces the number of Medicaid nursing home patients, savings may result.

The bill further establishes a pilot program within DSS to assist in implementing the Nursing Facilities Transition Grant. DSS must ensure the individuals moving to the community receive sufficient funds under the state supplement program to allow them to meet the minimum financial requirements for living in the community. This will result in a significant cost to the Aid to the Disabled program through higher benefits for participants in the pilot program.

The bill further appropriates an unspecified amount to the Department of Social Services for FY04 in order to implement the pilot program, fund an additional 100 personal care assistance waiver slots, and fund an additional 75 Katie Beckett waiver slots. As the appropriated amount is left blank in the bill, the funds intended to be

appropriated and therefore the associated fiscal impact cannot be determined.

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**OLR Bill Analysis**

sHB 6636

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE LONG-TERM CARE ADVISORY COUNCIL****SUMMARY:**

This bill requires the Department of Social Services (DSS) commissioner to seek a new, broader Medicaid Independence Plus Home and Community-Based Services Waiver or a Medicaid Independence Plus Research and Demonstration Waiver to replace the current Personal Care Assistance (PCA) Waiver for people aged 18 to 64 with physical disabilities. Under the new waiver, DSS must provide personal care assistance and other services at home to people of any age who would otherwise need institutional care, regardless of their disability type.

The bill also (1) establishes a pilot program in DSS to assist in implementing the Nursing Facilities Transition Grant which the state received from the federal Department of Health and Human Services in October 2001, (2) requires the program to help 150 people move out of nursing homes into the community, and (3) requires DSS to provide them with additional funds to enable them to live in the community.

The bill appropriates unspecified sums to DSS to implement the pilot program for FYs 2003-04 and 2004-05, to expand the current number of slots by 100 in the PCA Waiver for 2003-04, and to expand the number of slots in the Katie Beckett Waiver from 125 to 200 (PA 00-2, June Special Session, required this increase within available appropriations). The Katie Beckett Waiver provides a variety of home- and community-based services to severely disabled children and others who would otherwise be institutionalized.

EFFECTIVE DATE: July 1, 2003, except for the pilot program, which is effective upon passage.

**MEDICAID INDEPENDENCE PLUS WAIVER**

The bill requires the new waiver to be implemented on the expiration

of the current PCA waiver, which serves people with physical disabilities who are between ages 18 and 64 and expires in 2004. It requires the new waiver to allow Medicaid beneficiaries to arrange and purchase personal care and support services that will allow them to remain in a family residence or their own home. The bill limits the program to people who require long-term supports at a level typically provided in an institution, regardless of the person's age or type of disability. It requires DSS to submit the waiver proposal to the Appropriations and Human Services committees for their approval under existing statutory procedures by December 31, 2003.

### **NURSING FACILITIES TRANSITION PILOT PROGRAM**

The bill requires the federal Nursing Facilities Transition Grant proceeds to facilitate the transition of 150 people with disabilities from nursing homes to community living from FY 2003-04 to FY 2005-06. The pilot program must allow people being moved from institutions under the grant to receive, under the State Supplement Program, sufficient funds that, along with other income, allow them to meet the minimum financial requirements for living in the community. Under the bill, living allowances must include:

1. a maximum rent allowance of at least 110% of the U.S. Department Housing and Urban Development fair market rent for the municipality where the person will live;
2. a food and household supplies allowance of \$150 a week;
3. a utilities allowance based on the standard state Rental Assistance Program allowance;
4. a monthly allowance of \$150 for clothing, personal incidentals, and transportation; and
5. an annual inflation adjustment to reflect changes in the consumer price index for urban consumers.

The bill requires DSS to (1) collect data on the cost of community living compared to institutional living for people covered by the grant and (2) annually report its findings to the Long-Term Care Planning Committee and the Long-Term Care Advisory Council.

## **BACKGROUND**

### ***Personal Care Assistants (PCAs)***

One alternative to nursing homes or home care through an agency is consumer-directed PCA services. In such a program, the client chooses his own personal care assistant (also sometimes called a personal care attendant) to help him with personal care and activities of daily living. The client acts as the employer, and trains, supervises, and may fire the attendant, but a financial intermediary takes care of the paper work. The program provides training to the client on how to function as the employer.

In the regular home care program, the client receives care through a home health care agency, which employs various home health care aides, homemakers, or chore persons for different functions and usually does not allow the client to choose the aide. The PCA can take over a number of these different functions.

### ***Connecticut Consumer-Directed PCA Programs***

Connecticut already allows this consumer-directed model of care to some extent under the existing PCA waiver for disabled people aged 18 to 64 and the acquired brain injury waiver, but has only a limited number of slots available in each program, and the programs do not cover people over age 65. Since 2000, DSS also administers a state-funded PCA pilot program within the Connecticut Home Care Program for Elders (CHCPE) that allows up to 50 people age 65 and over to hire their own attendants instead of going through a home health care agency for services. The program is available to people who (1) were receiving PCA services under the Medicaid waiver program for the disabled during the year before they turned 65 or (2) are eligible for CHCPE services but are unable to access adequate home care services (PA 00-2, June Special Session, Sec. 47, which is not in statute because it is special act language).

### ***Medicaid Independence Plus Waivers and Olmstead***

Regular Medicaid pays for medical services for very poor families with children, elderly, blind, and disabled people (including home care when needed) and for people with somewhat higher incomes in nursing homes. States can apply to the federal Centers for Medicare and Medicaid Services (CMS) to waive some of the regular Medicaid



rules so they can serve additional medically needy populations. Usually, states set somewhat higher income limits for these programs, but limit the number of “slots” (people allowed to participate in the program). Two kinds of waivers are the 1115 research and demonstration waivers (named after the section of the Social Security Act that authorized them) and the 1915(c) home and community-based waivers (which are aimed specifically at providing home care services to people who would otherwise be institutionalized).

A 1999 U.S. Supreme Court decision ruled that states cannot discriminate against people with disabilities by offering them long-term care services only in institutions when they could be served in the community, given state resources and other citizens’ long-term care needs (*Olmstead v. L.C.*, 119 S. Ct. 2176 (1999)). The Court suggested two ways that states could demonstrate their compliance: (1) creating a comprehensive, effectively working plan and (2) having a waiting list for community services that moves at a reasonable pace.

CMS has taken a number of steps to help states respond to *Olmstead*, including giving them some guidance, technical assistance, and grant funding (including the Nursing Home Transition Grant Connecticut received for the express purpose of moving people from nursing homes to the community). One such step is CMS’ development of the 1115 and 1915(c) Independence Plus waiver templates, which are specifically designed to allow consumer-directed PCA and other related services to help people live in the community. The new templates are more flexible and have a streamlined application process compared to the regular waivers.

### ***Related Bill***

SB 730 requires DSS to (1) allow consumer-directed PCA services as an alternative to regular home health care (through agencies) under both the state-funded portion and the Medicaid waiver portion of the CHCPE, which serves people age 65 and over; (2) permit family members other than spouses to act as PCAs in the CHCPE program; and (3) apply to the federal government for a Medicaid waiver to allow this in the Medicaid-funded portion. On March 11, the Aging Committee referred the bill favorably to the Human Services Committee, which reported it favorably unchanged to the floor on April 1.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable Substitute

Yea 12      Nay 6